



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/559,691

04/21/2006

Paul William Chapman

82047.008

1934

25005

7590

11/17/2008

Intellectual Property Dept.

Dewitt Ross & Stevens SC

2 East Mifflin Street

Suite 600

Madison, WI 53703-2865

EXAMINER

LEE, GILBERT Y

ART UNIT

PAPER NUMBER

3673

MAIL DATE

DELIVERY MODE

11/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,691	Applicant(s) CHAPMAN, PAUL WILLIAM	
	Examiner GILBERT Y. LEE	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 13 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/29/08 has been entered.

Drawings

2. The drawings are objected to because Fig. 1 seems to be a top view of the invention and it is understood that all cells 2 are equal, but it is unclear as to why the shapes of the cells change and why gaps appear between the cells, moving up the page. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cells being tensioned both when inflated and deflated and the cells assuming an untensioned shape in claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The amendment filed 8/29/08 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The amendment to Fig. 3 presents new matter since the dotted line shifts the anchor point, there is no support in the current disclosure that the pad base (12) shifts when the cells are inflated/deflated.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 10-15 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the cells being tensioned, page 3, line 25-page 4, line 6, does not reasonably provide enablement for the cells assuming an untensioned shape different from the tensioned shape. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to

make and/or use the invention commensurate in scope with these claims. The specification does not enable the cells to have an untensioned shape different from the tensioned shape, since the cells are always in tension.

6. Claims 21-24 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the cells being bent, Figs. 2 and 3, does not reasonably provide enablement for how the cells are bent and in what direction the cells are bent. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 9-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 requires that the cells be tensioned across their lengths both when inflated and deflated but also claims that when tension is released, the cells assume an untensioned shape different from the tensioned shape. It is unclear as to how the cells assume an untensioned shape if the cells are always in tension. It seems that the applicant is trying to claim that when the cells are separated from the pad, they assume an untensioned shape different from the tensioned shape. If the cell is removed from

the pad base, then it is no longer part of the pressure pad. If pieces of the pressure pad are being claimed, then it is suggested to claim the pieces in a KIT format.

Claims 11-15 are rejected for depending upon a rejected claim.

Claims 21-22 recite the cell being bent or having a bend. It is unclear as to how the bell is bent.

8. The examiner has not performed a search of the prior art for claims 10-15 and 21-24 due to the lack of enablement of the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Cook et al. (US Patent No. 6,349,439).

Regarding claim 1, the Cook et al. reference discloses a pressure pad (e.g. Fig. 1) comprising at least two sets of alternately inflatable cells (e.g. 1 and 2), the cells having lengths extending linearly transversely along the pad (e.g. Fig. 1) and held in place on a pad base (Figs. 5A-5C) by retaining means (e.g. 4 and 20), characterized in that the retaining means hold the lengths of the cells in tension across the pad (e.g. Figs. 1 and 5B, at least part of the length is held in tension).

Regarding claim 2, the Cook et al. reference discloses the retaining means being releasable (Col. 3, Lines 41-48).

Regarding claims 3 and 6, the Cook et al. reference discloses the retaining means securing the opposite ends of each cell at a predetermined distance from the centre linear axis of the cell, such that the length of each cell is bent (Figs. 5A-5C).

Regarding claims 4 and 7, the Cook et al. reference discloses the retaining means also securing the central region of the lengths of the cells along the centre linear axis of the cell (e.g. Fig. 1 and Figs. 5A-5C).

Regarding claims 5 and 8, the Cook et al. reference, as best understood, discloses the retaining means comprising loop straps (e.g. 20) fixed to the pad base retaining the central region of the length of each cell and fasteners (e.g. Col. 3, Lines 41-48) releasably retaining each end of the cell to the pad base.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-9 and 16-20, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (US Patent No. 5,966,762) in view of Cook et al.

Regarding claim 1, the Wu reference discloses a pressure pad (Figs. 1-8) comprising inflatable cells (1), the cells having lengths extending linearly transversely

along the pad (Figs. 1-2) and held in place on a pad base (20) by retaining means (11 and 12), characterized in that the retaining means hold the lengths of the cells in tension across the pad (Figs. 1-2).

However, the Wu reference fails to explicitly disclose at least two sets of alternately inflatable cells.

The Cook et al. reference, an inflatable pad, discloses alternately inflatable cells (e.g. 1 and 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide alternately inflatable cells to the Wu reference in view of the teachings of the Cook et al. reference in order to prevent and manage ulcers in bedridden patients (Cook et al., Col. 1, Lines 3-6).

Regarding claim 2, the Wu reference, as modified in claim 1, discloses the retaining means being releasable (Wu, Col. 2, Lines 20-23).

Regarding claims 3 and 6, the Wu reference, as modified in claims 1 and 2 discloses the retaining means securing the opposite ends of each cell at a predetermined distance from the centre linear axis of the cell, such that the length of each cell is bent (e.g. Wu, Fig. 7).

Regarding claims 4 and 7, the Wu reference, as modified in claims 3 and 6, discloses the retaining means also securing the central region of the lengths of the cells along the centre linear axis of the cell (e.g. Wu, Figs. 1-8).

Regarding claims 5 and 8, the Wu reference, as modified in claims 4 and 8, discloses the retaining means comprising loop straps (Wu, 12) fixed to the pad base

retaining the central region of the length of each cell and fasteners (Wu 11) releasably retaining each end of the cell to the pad base (e.g. Wu, Fig.1).

Regarding claim 9, the Wu reference, as modified in claim 1, discloses the lengths of the cells, as they extend transversely along the pad, are held in a bent state by the retaining means (e.g. Wu at 10 or Fig. 7).

Regarding claim 16, the Wu reference discloses a pressure pad (Figs. 1-8) including:

- a. a pad base (20)
- b. inflatable cells (1) atop the pad base, the cells having lengths extending between opposing cell ends across the pad base (Figs. 1-2);
- c. loops (12) extending about the cells and restraining the cells to the pad base (Figs. 1-2), the loops being spaced from the cell ends (Figs. 1-2);
and
- d. fasteners (11) at the cell ends, the fasteners being affixed to the pad based, whereby the cells are held to the pad base (Figs. 1-2);

wherein the loops and the fasteners urge the cells into nonlinear shapes between the loops and the fasteners (e.g. Fig. 7).

However, the Wu reference fails to explicitly disclose at least two sets of alternately inflatable cells.

The Cook et al. reference, an inflatable pad, discloses alternately inflatable cells (e.g. 1 and 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide alternately inflatable cells to the Wu reference in view of the teachings of the Cook et al. reference in order to prevent and manage ulcers in bedridden patients (Cook et al., Col. 1, Lines 3-6).

Regarding claim 17, the Wu reference, as modified in claim 16, discloses the cells are tensioned along their lengths between the loops and the fasteners (e.g. Wu, through elements 11).

Regarding claim 18, the Wu reference, as modified in claim 17, discloses the loops extending about one of the cells having central axes which are offset from a linear axis extending between the fasteners of the cell (Wu, Fig. 7).

Regarding claim 19, the Wu reference, as modified in claim 16, discloses the loops extending about one of the cells having central axes which are offset from a linear axis extending between the fasteners of the cell (Wu, Fig. 7), the offset extending in a direction oriented at least substantially perpendicularly to the linear axis extending between the fasteners of the cell (Wu, Fig. 7).

Regarding claim 20, the Wu reference, as modified in claim 19, discloses the cells being tensioned along their lengths (e.g. Wu through elements 11).

Response to Arguments

11. Applicant's arguments filed 8/29/08 have been fully considered but they are not persuasive.

With regards to the applicant's argument of the Drawing Objection of Fig. 2, the objection has been withdrawn; however, it is unclear as to what view Figs. 2 and 3 are showing.

With regards to the applicant's argument of the Drawing Objection, the argument is not persuasive because the amended drawings contain new matter as stated above. Furthermore, the drawings still fail to disclose the cells being tensioned both when inflated and deflated.

With regards to the applicant's argument of the 35 USC 112(1) rejection, the argument is not persuasive because the current disclosure does not enable one of ordinary skill in the art to make the bend/bent shape (e.g. are the cells bent upwards, towards the head section, towards the foot section, or towards the bottom; how are the cells tensioned in the deflated state). The applicant argues that **"if the cells are unfastened at their ends...the tensioned cells...will be released and the cells will assume a linear shape"**. As stated above, the claims are directed to a pressure pad and not a KIT. The cells are disclosed as always being tensioned since the cells with the pad base make the pressure pad.

With regards to the applicant's argument of the 35 USC 112(2) rejection of claim 9, the argument is persuasive and the rejection is withdrawn.

With regards to the applicant's argument of the 35 USC 112(2) rejection of claims 10-20, the argument is not persuasive because, as stated above, the claims are directed to a pressure pad with the cells and pad base making the pressure pad. The

applicant's argument states that the only time the cells are untensioned is when the cells are removed from the pad base.

With regards to the applicant's argument of the rejection of claim 1 in view of the Cook reference, the argument is not persuasive because the loops of the Cook reference have a width that runs along the length of the cells, therefore tensioning across the cells. The applicant further argues that the Cook reference is a prior art pressure pad of the type discussed in Applicant's specification; however, since the Cook reference teaches limitations of the rejected claims, the rejection stands.

With regards to the applicant's argument of the rejection of claims 3 and 6 in view of the Cook reference, the argument is not persuasive because "opposite ends" is being interpreted in its broadest interpretation of "opposite left and right ends from the center of the cell".

With regards to the applicant's argument of the rejection of claims 5 and 8 in view of the Cook reference, the argument is not persuasive because a strap is a "fastener" that can be released.

With regards to the applicant's argument of the rejection of claim 1 in view of the 35 USC 103 rejection, the argument is not persuasive because the retaining means 11 and 12 of the Wu reference hold at least part of the lengths of the cells in tension.

With regards to the applicant's argument of the rejection of claims 3, 6, and 9 in view of the 35 USC 103 rejection, the argument is not persuasive because the retaining means 11 and 12 hold the cells in the position shown in Figs. 7-8 while creating a tension.

With regards to the applicant's argument of the rejection of claim 16 in view of the 35 USC 103 rejection, the argument is not persuasive because Figs. 7-8 clearly show a nonlinear shape as claimed.

With regards to the applicant's argument of the rejection of claims 17 and 20 in view of the 35 USC 103 rejection, the argument is not persuasive because the retaining means 11 and 12 of the Wu reference hold at least part of the lengths of the cells in tension.

With regards to the applicant's argument of claims 10 and 21-24 see above rejection.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GILBERT Y. LEE whose telephone number is (571)272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia L Engle/
Supervisory Patent Examiner, Art Unit 3673

/G. Y. L./
Examiner, Art Unit 3673